



OFFICE OF THE GOVERNOR

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MEMORANDUM

TO: General Counsels

FROM: Terry Jarrett

DATE: August 24, 2005

SUBJECT: Audit Issues

This is to clarify the Administration's position on providing the State Auditor access to information and records.

There are three situations where the State Auditor has requested access to information and records: (1) financial post-audits of accounts; (2) performance audits; and (3) informal requests that the State Auditor has described as "pre audit" questions to determine whether an audit is even necessary.

After the Governor met with the State Auditor on July 14, 2005, a letter under the Governor's signature was delivered to the State Auditor setting out the scope of the cooperation of the Executive Branch departments in responding to requests for information from the State Auditor. The letter stated that departments would cooperate in providing the State Auditor full access, in accordance with state and federal law, to the books, accounts and papers necessary to perform the Auditor's audit duties. The letter further provided that it is the policy of the administration to treat all requests for records from the State Auditor's office that are not related to a current audit as Sunshine Law requests. The letter concluded by providing: "I want to make it clear that my administration will cooperate to the fullest extent allowed by law in providing your office with access to records when you post-audit the financial affairs of agencies in the Executive Branch, as well as provide you with copies of open public records you request in accordance with the Missouri Sunshine Law."

Based on the letter and further guidance from this office, agencies have been declining to participate in performance audits proposed by the State Auditor. OA, DOR, DOC, and DHSS

have all sent similar letters setting out the cases and Attorney General's opinions which hold that the State Auditor has no authority to conduct performance audits. They further state that they will be glad to provide any information requested under the Sunshine Law.

It was never the Governor's intent to refuse to allow the State Auditor to conduct performance audits. To be clear, the Administration's position is that the legal authority for the State Auditor to conduct performance audits is questionable. Nevertheless, all agencies and departments should treat the State Auditor's requests to conduct performance audits the same as requests to conduct financial audits, and should provide whatever cooperation and access to records as is necessary and appropriate. Random or "pre audit" requests for information that are not tied to any audits should be treated as sunshine law requests.

I apologize for the confusing and conflicting information that may have been shared with you, but I hope that this clarifies the Governor's position. Please let me know if you have any questions or need additional information on this issue.